

PATENT  
1131-0500P

**IN THE U.S. PATENT AND TRADEMARK OFFICE**

Applicant:	TABUCHI, Hiromi et al.	Conf:	4066
Serial No.:	10/771,328	Art Unit:	1741
Filed:	February 5, 2004	Examiner:	R. J. KEMMERLE III
For:	DOUBLE WRAPPER CIGARETTE, MACHINE AND METHOD FOR MANUFACTURING THE SAME		

**REQUEST FOR PRE-APPEAL BRIEF REVIEW**

**June 02, 2011**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed April 14, 2011, the Applicants respectfully request a Pre-Appeal Brief Conference.

This Paper includes Remarks.

**REMARKS**

The Applicants request withdrawal of the rejections of record as being erroneous in fact and in law for the reason set forth below.

**Status of the Claims**

Claims 1, 2, 4, 6, and 10-13 are pending. Claims 1, 6, and 10 are independent.

**Rejections to be Reviewed**

Claims 1 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Noe et al. (U.S. 5,494,055) in view of Miyauchi et al. (U.S. 2002/0074007) and Le Gars (U.S. 5,143,099);

claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Noe et al. and Miyauchi et al., Le Gars, and Baker et al. (U.S. 4,624,268);

claims 6-8, 10, 12, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Noe et al. and Miyauchi et al., Le Gars, Lowman (U.S. 2,999,520), Marchese (U.S. 2,230,702) and Eckstein (U.S. 2001/0,009,938).

**Distinctions of the Present Invention Over the Applied Art**

**Independent Claim 1**

**Independent claim 1** recites a combination of features, including *inter alia*:

“wherein the carrier glue of said perfume emitting layer is applied to an entire outer surface of said inner wrapper to form an adhesive layer portion on the outer surface of said inner wrapper, and

the perfume material of said perfume emitting layer is diffused over the adhesive layer portion to form a layer portion of the perfume material.”

The **Noe et al.** reference merely discloses an aroma mixture (perfume material) applied in encapsulated or unencapsulated form onto the appropriate paper layer. **Noe et al.** also disclose that the inner paper and the outer paper are stuck together in layers by laminating or gluing over the whole surface or at certain points. The gluing of **Noe et al.** is not related to and is separate from applying the aroma mixtures to the paper layers. On page 2 of the Office Action, the Examiner concedes that **Noe et al.** do not expressly teach that the perfume emitting layer contains a glue for carrying the perfume material.

Paragraph [0029] of the **Miyauchi et al.** reference discloses that the flavorant is applied to the tobacco wrapper paper, and can also be used as a seam adhesive. However, there is no suggestion in **Miyauchi et al.** that the “flavorant” used as “seam adhesive” discloses “carrier glue of said perfume emitting layer is applied to an entire outer surface of said inner wrapper to form an adhesive layer portion on the outer surface of said inner wrapper, and the perfume material of said perfume emitting layer is diffused over the adhesive layer portion to form a layer portion of the perfume material,” as set forth in **independent claim 1**.

**Le Gars** was cited as allegedly disclosing an inner wrapper with non overlap.

At least for the reasons explained above, **independent claim 1** is not disclosed or made obvious by the combination of prior art of record, including Noe et al., Miyauchi et al. and Le Gars. Since a *prima facie* case of obviousness has not been established in connection with the rejection of **independent claim 1**, it is the Applicants' belief that **independent claim 1** is allowable over the cited references. Insofar as claims 2, 4, and 11 depend from **independent claim 1**, these claims are also allowable at least by virtue of their dependency.

**Independent Claims 6 and 10**

**Independent claim 6** recites a combination of elements directed to a manufacturing machine for manufacturing a double wrapper cigarette having a triple layer structure, including *inter alia*:

“said perfume material supply device being so provided as to apply material including a perfume material for weakening odor of sidestream smoke of the cigarette onto the inner web fed along said first feeding path so as to form a perfume emitting layer to be disposed between the inner and outer webs of the double web, the perfume emitting layer providing the triple layer structure to the cigarette, ...

wherein said perfume emitting layer covers an entire outer circumferential surface of said inner wrapper, and includes the perfume material and carrier glue for carrying the perfume material.”

**Independent claim 10** recites a combination of steps in a method of manufacturing a double wrapper cigarette having a triple layer structure, including *inter alia*:

“applying material including a perfume material for weakening odor of sidestream smoke of the cigarette onto the inner web by means of a perfume material supply device thereby forming the perfume emitting layer to be disposed between said inner and outer wrappers of said double wrapper while the inner and outer webs are being fed,

the perfume emitting layer covering an entire outer surface of the inner web, and including the perfume material and carrier glue for carrying the perfume material.”

As discussed above with regard to **independent claim 1**, the **Noe et al.** reference merely discloses an aroma mixture (perfume material) applied in encapsulated or unencapsulated form onto the appropriate paper layer. **Noe et al.** also disclose that the inner paper and the outer paper are stuck together in layers by laminating or gluing over the whole surface or at certain points. However, the gluing of **Noe et al.** is not related to and is separate from applying the aroma mixtures to the paper layers. On page 4 of the Office Action, the Examiner concedes that **Noe et al.** do not expressly teach a glue for carrying the perfume material. Regarding the Examiner's implication page 5 of the Office Action (applying glue and spraying), column 4 of **Noe et al.** merely discloses "spraying the capsule slurry onto the paper." **Noe et al.** fail to disclose that the slurry contains glue.

Paragraph [0029] of the **Miyauchi et al.** reference discloses that the flavorant is applied to the tobacco wrapper paper, and can also be used as a seam adhesive. However, there is no suggestion in **Miyauchi et al.** that the "flavorant" used as "seam adhesive" discloses

"the perfume emitting layer providing the triple layer structure to the cigarette, ... wherein said perfume emitting layer covers an entire outer circumferential surface of said inner wrapper, and includes the perfume material and carrier glue for carrying the perfume material," as set forth in **independent claim 6**, or

"the perfume emitting layer covering an entire outer surface of the inner web, and including the perfume material and carrier glue for carrying the perfume material," as set forth in **independent claim 10**.

**Le Gars** was cited as allegedly disclosing an inner wrapper with non overlap.

**Lowman** was cited merely to disclose a cutter for creating sections of predetermined lengths.

The applicators and application methods disclosed in **Marchese** and **Eckstein**, however, only form a single layer, not a double layer comprising two layers, which is the case with the perfume emitting layer of the present invention.

At least for the reasons explained above, the Applicants respectfully submit that the combination of elements as set forth in each of **independent claims 6 and 10** is not disclosed or

made obvious by the prior art of record, including **Noe et al., Miyauchi et al., Le Gars, Lowman, Marchese, and Eckstein**. Since a *prima facie* case of obviousness has not been established in connection with the rejection of **independent claims 6 and 10**, it is the Applicants' belief that each of **independent claims 6 and 10** is allowable over the cited references. Insofar as claims 12 and 13 depend respectively from **independent claims 6 and 10**, these claims are also allowable at least by virtue of their dependency.

### CONCLUSION

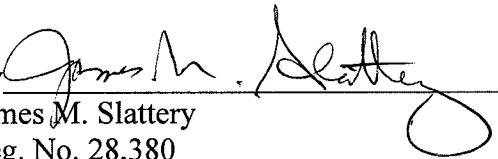
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030 (direct line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

**Dated: June 02, 2011**

By   
James M. Slattery  
Reg. No. 28,380  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road, Suite 100E  
P. O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

JMS:CTT;jam